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MAILED

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OFFICE OF PETITIONS

In re Patent No. 7,589,641	:
Wobben	:
Issue Date: September 15, 2009	: DECISION ON REQUEST FOR
Application No. 10/517,130	: RECONSIDERATION OF
Filed: June 29, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No.	: AND NOTICE OF INTENT
970054.482USPC	: TO ISSUE CERTIFICATE OF
Title: Hazard Navigation Light	: CORRECTION
For Wind Turbines	:

This is a decision on the petition filed on November 5, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred eighty-nine (289) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 274.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 439, not 441 days. In an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 37 CFR 1.702(b). The priority date of this application is June 7, 2002. As early commencement was not requested, national stage commenced in this application on December 7, 2004. Thus, "B" delay is 439 days, counting the number of days beginning on December 8, 2007 and ending on February 18, 2009, the day before the filing of the

Request for Continued Examination (RCE). See 1.703(b) and 35 U.S.C. 154(b)(1)(B)(i).

However, a review of the record shows that a 12-day reduction was warranted pursuant to 37 CFR 1.704 (c)(10) which provides:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months;

The Notice of Allowance was mailed on May 6, 2009. On July 27, 2009, patentees filed a "Request for Consideration of a Previously Submitted Information Disclosure Statement (IDS)". The submission of the request after the mailing of the Notice of Allowance on May 6, 2009 constituted a failure to engage pursuant to 37 CFR 1.704 (c)(10). This period is 12 days, counting the number of days in the period beginning on July 27, 2009 and ending on August 7, 2009, the date of the mailing of the response to the request.

As such, patentees' delay totals 164 days (61 + 61 + 30 + 12).

The period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicant delay of 164 days.

In view thereof, the patent is entitled to an overall adjustment of 549 days (274 days under 37 CFR 1.702(a) + 439 days under 37 CFR 1.702(b) - 164 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred forty-nine (549) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,589,641 B2

DATED : **September 15, 2009**

DRAFT

INVENTOR(S) : Wobben

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 122 days

Delete the phrase “by 122 days” and insert – by 549 days--